PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on April
1st, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

April 1st, 2015
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:
DENNIS MIETZ, CHAIRMAN
JEANNE DALE
MORREY GOLDMAN
CHRISTINE CORRADO
ANDREA TOMPKINS WRIGHT
DAVID DOLLINGER, ESQ
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
CANDICE BAKER LEIT, ESQ.
JUDY SCHWARTZ

Reported by:    CHAD L. SMITH, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

EDITH FORBES (585)343-8612
MR. MIETZ: I would like to then call to order the April, 2015 meeting of the Zoning Board of Appeals.

Rick, was the meeting properly advertised?

MR. DiSTEFANO: Yes, Mr. Chairman. It was advertised in the Brighton Pittsford Post of March 26, 2015.

MR. MIETZ: Will you please call the roll?

MR. DiSTEFANO: Please let the record show that Ms. Schwartz and Ms. Baker Leit are not present.

MR. MIETZ: Okay. We're ready then.

Will you please read the first application?

4A-01-15 Application of Congregation Light of Israel, owner of property located at 1675 Monroe Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to erect a tent and hold up to six (per year) outdoor special events for the years 2015 and 2016. All as described on application and plans on file.

MR. MIETZ: Good evening.

MS. BRUGG: Thank you very much, Mr. Chairman, Members of the Board. My name is Betsy Brugg. I'm an attorney with the firm Woods Oviatt Gilman. And I'm here on this application together here with Alan Brodsky, the synagogue president.
The Board will note that relief in the form of a temporary and revocable use permit was issued for the same type of tent in September of 2013, a sort of trial for the uses of the outside tent were permitted.

The synagogue is essentially proposing up to six events a year for the next two years. It is helpful for them to do this all at once because they often don't have a lot of lead time. If they have an out-of-town speaker or a guest or some type of reception at the synagogue they want to be able to go outside and put up the tent and use it.

They have a good relationship with their neighbors. We don't foresee any issues with this. As I mentioned before, the Board has granted this before. We're asking for two years, up to six events per year.

Any questions?

MR. MIETZ: I don't know if you reviewed the previous approval. There were a few conditions that were on there.

Is there anything that needs to be any different than --

MS. BRUGG: No, no problem.

MR. MIETZ: Any concerns that you have about doing anything differently?
MS. BRUGG: No, I discussed that with Mr. Brodsky there and there are no issues with any of the conditions.

MR. MIETZ: So the eleven o'clock end time, the sound issues, the two days before and two days after?

MS. BRUGG: It's all fine.

MR. MIETZ: Everything good?

MR. BRODSKY: Yeah, everything's fine.

MR. MIETZ: Okay. Any questions? Does anybody have any issues?

MR. GOLDMAN: How many times during the last period did you actually use the backyard?

MR. BRODSKY: I think we had three.

MR. GOLDMAN: Three.

MR. BRODSKY: But it's one of the situations where we never exactly know is he coming to town, when we'll need it. We do go into the fire marshals for a permit each time.

MR. GOLDMAN: Okay. That was my next question.

MR. BRODSKY: Yeah.

You answered it.

MS. TOMPKINS WRIGHT: How big is the tent?
Is it the same tent for each event or do you use a vendor?

MR. BRODSKY: We use a vendor.

MS. TOMPKINS WRIGHT: Okay.

MR. BRODSKY: We don't want to get involved with the, you know, dismantling everything. So we just take the space that we have and we just have the tent erected. We put it up the day or two before because—especially if the event is on a Saturday morning, we have to put it up on a Friday and can't take it down until Monday.

MS. DALE: If you have any reason to believe that a particular event is going to be more popular and have more of your congregation and have visitors perhaps attend—if you have reason to believe there's going to be a larger group of people there—what do you do from a parking perspective with the small number of spaces that you have today?

I saw on the notes that many people walk.

MR. BRODSKY: Yeah, many people walk. It would be on the sabbath. But we have other events that are not.

We have a relationship with our neighbors. Bland Reality allows us to park there. M&T, when
they're closed, if it's an evening event we park there. People also park on the street on St. Regis.

So we have had events. We never had an issue with parking except for when we first opened up, but we resolved that fairly quickly.


And as far as the timing goes, I know you asked for a two year period.

Based on where we're starting here in April, that the fall of '16, what would be the latest in the fall that you would probably consider an event? Like October?

MR. BRODSKY: I think the last couple of years the last event --

MS. BRUGG: Simchat Torah.

MR. BRODSKY: Yeah. It depends on when Simchat Torah - which is a holiday - when that occurs, because we've traditionally had a typical Jewish Chinese lunch for Simchat Torah. And that's sort of our closing type outside event. So it would be in most likelihood the last event outside.

MR. MIETZ: Okay. And that's usually October/November?

MR. BRODSKY: Around October.
MS. BRUGG: Right.

MR. MIETZ: Again, just to pick an end date, I mean, we'll just say the end of November or whatever. Okay. We can move on.

MS. BRUGG: Okay.

MR. MIETZ: All right. Any other questions? Okay. Thank you very much.

MR. BRODSKY: Thank you.

MS. BRUGG: Thank you.

MR. MIETZ: Is there anyone in the audience that would like to speak regarding this application? There being none, I thank you.

MS. BRUGG: Thank you.

MR. MIETZ: Let's go for the next application then.

4A-02-15 Application of Robert and Yvonne Wheeler, owners of property located at 140 Winslow Avenue, for an Area Variance from Section 207-2A to allow a front yard fence to be 6.5 ft. in height in lieu of the maximum 3.5 ft in height allowed by code. All as described on application and plans on file.

MR. WHEELER: Good evening. My name is Robert Wheeler. I reside at 140 Winslow. My wife Evon is here with me this evening.
For those of you that were here last October I was before the Board. We had purchased the adjacent property at 126 Winslow. And we were looking to do a resubdivision of that property, stripping off a portion of the backyard and putting that on to our property. That was approved by the Board in October and we've gone through with that. And that's all filed with the county.

What we are looking to do is to put a fence along that lot line in the rear of 126 Winslow. But that's a piece of property that once we've done all the renovations we intend to sell that property and keep and reside in the 140 Winslow property. So we would like to put the fence up on the 140 Winslow side of that property line.

We are looking to put up a backyard fence which would be a maximum of six and a half feet tall. But because of the position of the house structure on the 140 Winslow property, which sits a little over a hundred and sixty-seven feet from the front, pretty much everything is front yard to us.

The reason that we are looking for the variance is because the -- if an owner residing at 126 Winslow wanted to put up a fence in that same location
on their side of the property line that falls within code, but because we want to put it on our side of the property line then the setbacks for the front of the house go according to the structure at 140 Winslow. So that is considered our front yard even though it's substantially off to the side and substantially to the rear of all the other properties in the neighborhood.

MR. MIETZ: Do you want to just for the record describe the fence?

MR. WHEELER: The fence would be identical to the fence that's currently behind the residence of 140 Winslow. It's the same style of fence. It's a very open latus fence. We use it more or less just to delineate where the property line is and as a backdrop for are flower gardens. It's not a totally solid fence or anything like that. It's a very open area.

MR. MIETZ: Okay. Any questions for Mr. Wheeler?

MR. GOLDMAN: I have one.

MR. MIETZ: Go ahead.

MR. GOLDMAN: The mailbox for 134, what's that all about?

MR. WHEELER: The property --

MR. GOLDMAN: It has nothing do two with
MR. WHEELER: No, it doesn't. The 140 Winslow property before we did the resubdivision was previously two separate lots and there was another house that was 134 Winslow back about where our vegetable garden is. That house had structural issues. We ended up after we bought that having it torn down and we had those lots consolidated. We kept the mailbox and put it deep in our woods as a momento.

MR. GOLDMAN: Yeah, it's very clever.

MR. WHEELER: Thank you.

MR. MIETZ: Okay.

MR. WHEELER: Any more great questions like that?

MR. GOLDMAN: Compliments to your landscaping.

MR. WHEELER: Thank you.

MR. MIETZ: I think you have the gardens in the back too, right?

MR. WHEELER: Pardon?

MR. MIETZ: You have some gardens also in there?

MR. WHEELER: Yeah.

Any other questions?

MS. TOMPKINS WRIGHT: Where is the existing -- you said it's identical, but where is that portion of the fence that is already connected?

MR. WHEELER: It's on the east side, behind the house at 140 Winslow. So it's the same style of fence.

I do have some photos of that particular fence.

MS. TOMPKINS WRIGHT: So --

MR. DiSTEFANO: Maybe he could -- do you want him to kind of point it out?

MS. TOMPKINS WRIGHT: Yeah, I'm sorry.

What part is being constructed?

MR. WHEELER: This is the existing fence (indicating).

MS. TOMPKINS WRIGHT: This one (indicating).

Okay. I thought you were pointing -- got it.

MR. GOLDMAN: I pointed to this (indicating).

MR. WHEELER: This is where we want it (indicating).

MS. TOMPKINS WRIGHT: Got it. Thanks.

MR. MIETZ: Questions?

Great. Thanks, Mr. Wheeler.
Is there anyone in the audience that would like to speak regarding this application? If not, the public hearing is closed.

4A-03-15 Application of Corwin and Lisa Marsh, owners of property located at 398 Cromwell Drive, for an Area Variance from Sections 203-2.1B(3) and 203-16A(4) to allow a detached garage to be 800 sf in size, after construction of a 400 +/- sf addition, in lieu of the maximum 600 sf allowed by code. All as described on application and plans on file.

MR. MARSH: Good evening. I've got --

MR. DiSTEFANO: Corwin, will you just mention -- state your name and address for the record please?

MR. MARSH: Corwin Marsh and this is my wife Lisa. We live at 398 Cromwell Drive.

I have a truncated version of our presentation with four letters from neighbors who have - who we have shared the drawings with.

Could we pass those out?

Right off the bat I want to make a correction to the drawing. My architect -- there's an error. It says it's fifteen foot eight. That's actually an inside diameter - an inside dimension. It's actually
sixteen foot four.

While most homes in my neighborhood are between 1/5 or 1/8 of an acre we have 1.3 acres and it's a heavily wooded area. We love it. It requires quite a few tools to actually work it. Actually, I also tend to be the tool donator for the neighborhood.

So -- I am a writer. The other work that I do is as a carpenter. And I've run out of space. I would like to have a -- I would like to double the size of my garage.

My neighbors -- as you look at the map there you could see that my biggest neighbor is CSX, the railroad. And in my packet that I handed out there are four letters from my four nearest neighbors that I've shared the plans with.

There's a photo you can see that as you -- from my driveway you would be able to see this whole addition from that portion, but if you stand in front of my house the addition would begin to disappear.

Is there a precedent for this in the neighborhood? I have a neighbor who lives four houses down on Hillsboro who has a nine hundred square foot garage. So this larger garage would allow me to put my cars away in the winter and also continue with a
portion of my livelihood.

Any questions?

MR. MIETZ: Can you describe what is going to be - what utilities, et cetera, are going to be in the garage?

MR. MARSH: Yes. I will run two twenty for my power tools and I would have gas to heat a furnace so that my tools don't rust, keep the wood stable.

MR. MIETZ: Okay. What about on the water and sanitary side?

MR. MARSH: There would be no water, sanitary out. The requirement for that would be prohibitive.


MR. GOLDMAN: The outside would look and resemble the current house?

MR. MARSH: It would resemble it. I'd like to step it up a notch. That garage was actually supposed to be demolished years ago when they were widening 490 and it was dragged there. And it doesn't exactly match the style of the house now. I would like to update it and make it a little more America Craftsman style.

MR. MIETZ: You know, like color and roofing and that sort of thing?
MR. MARSH: That would match. That would correspond.

MR. DiSTEFANO: So the elevation drawing that you submitted with the packet is pretty much what you want, correct?

MR. MARSH: Yes.

MS. TOMPKINS WRIGHT: That would have to go in front of the Architectural Review Board?

MR. DiSTEFANO: No.

MS. TOMPKINS WRIGHT: They don't?

MR. DiSTEFANO: Detached garages do not need review by the Architectural Review Board.

MS. CORRADO: I have a question about your woodworking.

MR. MARSH: Yes.

MS. CORRADO: It looks like the garage is pretty far set back from your home and your neighbors. But how much noise will come from your woodworking and do you anticipate working late into the night?

MR. MARSH: As you can see the train runs right by there and I will be much quieter than the train.

MS. CORRADO: You'll time the planer and --
MR. MARSH: You know about planers. Yes.

MS. CORRADO: And your neighbors are aware that you intend to do woodworking there?

MR. MARSH: Yes. In fact, last night I was out in my driveway. I had the planer out in my driveway because I don't have the room. It was for another neighbor's project.

MS. DALE: It might be quieter if you do it inside the garage.

MR. MARSH: Yes, it would.

MR. MIETZ: All right. Any other questions?

Okay.

MR. MARSH: Thank you very much.

MR. MIETZ: Thank you.

Is there anyone in the audience that would like to speak regarding this application?

There are none. We can move on. The public hearing is closed.

4A-04-15 Application of J. Fiorie and Company, agent, and M&F, LLC, owner of property located at 2740 Monroe Avenue, for a Sign Variance from Section 207-32A(4) to allow for two for sale / lease signs where a maximum one for sale / lease sign is allowed by code. All as described on application and plans on file.
MS. BRUGG: Thank you very much. For the record I'm Betsy Brugg. I am an attorney with the firm Woods Oviatt Gilman. I'm here for J. Fiorie and Company.

The request is for a variance for a second sign. I don't have a full size plan, but hopefully you saw the plan that's enclosed in the materials. This is a real estate brokerage advertising sign for space for lease in the Daniele property.

So this is really one code -- you know, under the interpretation of the code this a snow-plow sign, so it's shaped like a V. If this were a back-to-back two-sided single sign it would not require a variance. The square footage, the height, the dimensions of the sign are acceptable. It is merely the fact that it is a snow-plow sign shape that has now made it technically two signs that requires a variance.

The code would allow for this property which has, I believe, four, six, eight - over eight hundred feet of frontage. We actually per code could have up to thirty-two square feet of signage on a two-sided sign on the Mario's parcel. We could have a second twenty-one square foot sign on the Clover Lanes parcel. And a third sign on the Mamasan's parcel. But that is
really not efficient.

So what we're proposing is really just this one structure. It will be located to the right of the vehicles exiting the driveway, so that it will not obstruct anyone's view.

The Architectural Review Board did take a look at this last week. I don't know if you have their comments, but they essentially recommended approval. There is a sign permit application that's also been submitted. They had two conditions that they wanted looked at. One is that the applicant shall ensure that the proposed sign meets New York State DOT requirements. It does comply with DOT regulations with respect to signage and approximated expressway.

I actually prepared a letter and am prepared to submit that. I don't know if the Board wants that, but I went ahead and addressed the two conditions of the ARB. And a I have a copy of the regulations that I could submit as well.

The second condition is that the applicant shall verify that the sign provides a safe viewshed for exiting traffic. And we've also -- I'll hand that out to you. What we did is our engineers went ahead prepared a drawing with the viewshed shown. I think
it's fairly obvious, but we were asked to have that documented for you. We did evaluate that and made sure there was no obstruction to vehicles exiting the property.

So what I'll do is -- Rick, would you like a copy just for you or give everyone a copy?

MR. DiSTEFANO: Do you guys want to see this?

MS. BRUGG: I do have copies if everyone would like.

MR. DiSTEFANO: If you've got them you might as well hand them out.

MS. BRUGG: It's okay. I just wanted to make sure we covered the comments in case the ARB comments came to the floor.

So basically those are the two issues that the ARB had to make sure that we were in compliance.

So the sign, as I said, in respect to the size, the dimensions, the height those are permitted. It is essentially the fact that it's been split into two for better visibility on Monroe Avenue.

That brings us to the Board. We have addressed the area variance standards in the application. Again, as the Board knows you're looking to the benefit of the applicant as compared to the
detriment to the health, safety and welfare of the community for granting the variance. I think that it's a win win for everybody.

Again, there is over eight hundred feet of frontage for this entire development site. So the size of the sign is really appropriate. The fact that it's being consolidated into kind of one appropriate structure, as opposed to multiple signs I think makes a lot of sense. It's really less obstructive. It's really less stuff along the road. The size of the sign is really proportionally appropriate for the development that is being advertised. The information on there is useful. And I think, you know, that it's beneficial to everyone.

Whether there will be an undesirable change produced in the character of the neighborhood: We don't believe the sign is going to produce any change in the character of the neighborhood whatsoever.

Whether the benefit sought by the applicant could be achieved by some other method: Again, this is really the appropriate signage for this development site. It's -- you know, it's a real estate advertising sign. We could have multiple signs, but I think this is a better option.
Whether the variance is substantial: Again, it's not. The variance is required simply because of the shape of the sign. Had it been back to back, you know, we wouldn't be here.

Whether there will be any adverse affect or impact on the physical or environmental conditions of the neighborhood: You know, it's an appropriate, tasteful sign. It will be in good condition.

And whether the difficulty is self-created:
And we would argue that it is not self-created. It's just kind of the nature of the sign that we're using.

MS. DALE: Do you have any sort of estimate for how long the sign will be in place; I mean, is it indefinite until --

MS. BRUGG: You know, that's a very good question because I asked the same question. It's really unknown.

The development that's being advertised is not yet been an approved development site. So I -- you know, until that development process is completed and the space is leased out it's hard to say.

MR. DiSTEFANO: It could be years.

MS. BRUGG: It could be.

MS. DALE: All right. Is it made out of
something -- maybe this is a silly question, but rain and snow and it's got going to like --

MS. BRUGG: Yeah, it's the typical quality of a commercial development sign. If it -- to be honest with you, if the condition deteriorates in any way it will just be replaced with a new one.

MS. DALE: Okay.

MS. BRUGG: And if for some reason it gets buried under eight feet of snow like the snow we had this winter, who knows.

MR. MIETZ: And to the best of your knowledge at this point this is the only sign that would be proposed?

MS. BRUGG: This is the only sign that's being proposed.

MR. MIETZ: Okay. Any other questions from anybody else?

Thank you very much.

MS. BRUGG: Thank you.

MR. MIETZ: Is there anyone in the audience that would like to speak regarding this application?

Okay. There being none, this public hearing is closed.

4A-05-15 Application of Marie Kenton, Ketmar
Development Corp., agent, and Chris O’Donnell and Colleen Wegman, owners of property located at 1 Elm Lane, for an Area Variance from Section 207-2B to allow a rear yard fence, surrounding a tennis court, to be 10 ft. in height in lieu of the maximum 6.5 ft. in height allowed by code. All as described on application and plans on file.

MR. MONTALTO: Good evening. I'm Mike Montalto with Costich Engineering. I'm here this evening on behalf of Chris O'Donnell and Colleen Wegman for an area variance for the property on 1 Elm Lane. With me this evening is Dan Brock from our office and Marie Kenton from Ketmar Development.

We are seeking an area variance from town code section 207-2B to allow portions of the fence surrounding the tennis court to be ten feet high, where the code permits six and a half feet. The O'Donnells are developing a regulation tennis court on their property, approximately sixty feet by a hundred and twenty feet, for their own personal recreation use.

I have with me reduced versions of the graphics that are going up on the boards. So depending on how folks' eyesight is it might be easier to see from here.
The front yard of -- it's a 5.4-acre parcel that is zoned residential low intensity. The property fronts Elmwood Avenue. So the front yard is technically the portion that's towards Elmwood Avenue. The tennis court in being developed in the rear yard portion of the property.

We did meet with town staff when we were first looking at the project to have a pre-application workshop meeting. And there was a desire actually to have placed the tennis court in technically what would be the front yard, you know. And on the 5.4 acre site that fit into the scheme of things well, but I think in terms of discussion of town code and how the property is used the client decided that they wanted to develop the tennis court in the rear yard, only requiring the variance for the height portion of the fence rather than also potential location of the facility on the property. That's the siting of the property.

The portions of the fence that we're talking about are - we're not talking about the entire perimeter of the tennis court, we are talking about the portions of the fence that are on each end of the tennis courts to allow basically twenty feet of what returns on the sidelines of the tennis courts and at
the backs of the courts to be the ten and a half feet. The sidelines are going to be a four and a half foot high fence. And as we go through the burden of proof standards -- and the reason I bring that up is we tried to minimize our variance request and, you know, so that it has the least amount of impact associated with the variance that we brought before you.

We did in our application go through the burden of proof standards. I'll walk you through them in abbreviated form, and if you have any questions I could go back to them in further detail.

Whether or not the variance will have a substantial change to the character of the neighborhood or detrimentally affect surrounding properties: We do not believe the variance request will result in a change to the character of the neighborhood. It is consistent with adjoining properties that do have residential tennis courts within a half mile radius. There are five other properties, four residential and the Country Club of Rochester that has its tennis courts as well. Within a quarter mile there are two facilities. The property directly adjoining them is one of them that has a tennis court as well and then the Country Club of Rochester. And then the next
quarter mile out there are two more on Elmwood and one on Landing Road South. So I don't believe that that will change the character of the neighborhood. Properties in the area do have their own tennis courts.

Whether or not it can be solved in any other method: We've minimized the impact relative to how much fence we're looking at. We're looking at fencing the area where, you know, the service returns or whatever occur and where the errant balls tend to leave the court. And a ten foot height is pretty much standard relative to, you know, tennis court installation. We did review with the tennis court folks whether or not a lower fence – you know, an eight foot fence rather than the ten – made sense and the standard tends to be ten when you look at what the bounce is and all the rest – the errant balls and --

How substantial is the request relative to the code: We're asking for positions of the fence to be six and a half feet, where the code requires ten. Relative to the perimeter the tennis court has approximately four hundred and twenty linier feet of fenced perimeter. We're asking for, you know, about two hundred and twenty approximately of that fence to be allowed to the higher height.
Is the variance request the minimum necessary: I believe there's kind of an overlap relative to what we already discussed. We've looked at which portions of the fence could be at the lower heights, which are higher. We're incorporating a four foot height down the sidelines and only ten foot at the ends. And, again, we believe it's consistent with the surrounding neighborhood property. It won't have a negative effect on the neighborhood. You know, there are other courts within the residential neighborhood within a half file radius. So it's consistent with that.

Is it self-created: It's self-created in that, you know, they are looking to develop a tennis court on their property. You know, the code was already in place. So from that standpoint, you know, it's not as much of -- that doesn't come into play as much.

I believe at this point -- well, let me walk you through -- what we've done is a couple things. We also looked at -- we did a site-line analysis and these are part of what's in the package. If you look at the first page it shows you where, you know, the tennis court is on the 5.4 acres. It's in the northeast
corner of the property, back in the rear yard. There used to be a tennis court actually years ago back in this general portion of this site. No trees are being moved to construct the tennis court in this area. And then you see the yellow lines over there because we did some views. We went to the adjoining properties and took site line photographs and took the three dimensional model of what the tennis court is going to look at and then rendered that.

And in the second page, what you see to the Gates' property, you are going to see the site line that occurs. What we did is we put in the drawing for you a couple of reference marks. The red line in the drawing represents where the six and a half foot code requirement would be in terms of the height of the fence and so you would get a relative understanding of how that plays out. The blue line, you know, represents the ten foot that's been, you know, modeled. This is all existing vegetation that's here(indicating) and none of this would be disturbed during the construction of the tennis courts.

And then the second site lines are from the Bucci property. And you will see the yellow line here(indicating) represents the down sideline, you
know, from the site line directly from their home, we only have, you know, the four foot high site line fence. So, you know, the higher fence doesn't come into play in that view at all. And then the, you know, this is we have the tennis courts and then we have the other tennis courts which are on the Bucci's. This is, you know, these folks here (indicating) they have their own tennis court on the opposite side of their home.

And we also have a rendering that we did. In the last image of the packet is the rendering so that you kind of get a feel of how, you know, this all plays together as we were talking about the higher heights. You've got the twenty feet at the ends, where it's ten feet high, where it's across the ends is ten feet, returns, you know, down the sidelines you have the four foot high fence, you know, and then back up to the ten feet high.

So at this point I guess I would conclude my form presentation and turn it over for any questions that you might have.

MR. DiSTEFANO: In the -- just so to get the bearings right, in the rendering that's the structure of the house, correct?

MR. MONTALTO: That's their -- yes.
MR. DiSTEFANO: So you're taking it from --

MR. MONTALTO: Yes. This is from the neighboring.

The problem with the site line is this site line is a little -- this site line ignores, Rick --

MR. DiSTEFANO: The trees.

MR. MONTALTO: -- all these trees.

MR. DiSTEFANO: Okay.

MR. MONTALTO: Because if we tried to give you the rendering from there you wouldn't be able to see --

MR. DiSTEFANO: So could you point on the overhead where this rendering is taken from?

MR. MONTALTO: This rendering would be from about like this corner(indicating).

MR. DiSTEFANO: Okay.

MR. MONTALTO: If you're standing in this corner(indicating) you would be in the trees.

MR. DiSTEFANO: Okay.

MR. MONTALTO: Looking down into the, you know -- so you could get a little bit of perspective.

MR. DiSTEFANO: Thank you.

MR. MONTALTO: This is the same site line(indicating) from, you know, brown, taking from
fifty millimeter camera lens height, you know, and average eye height (indicating). So this is what the neighbor would see. This, you know --

MR. DI STEFANO: Right.

MR. MONTALTO: This (indicating) is up in the trees and looking down so you could get a perspective of how the one dimensional plan plays out.

MS. TOMPKINS WRIGHT: This application requires Planning Board approval?

MR. DI STEFANO: No, it doesn't.

MS. TOMPKINS WRIGHT: The screening of it, I understand -- how many of the trees that you are doing from the southwest, into the bottom left depiction, are actually on the applicant's property?

MR. MONTALTO: They're all -- all this vegetation is on the neighbor's. That's this tree line here (indicating). That's all their tree screening. This all their screening.

We're fifteen feet in from the property line. We are developing it in a lawn area.

MS. TOMPKINS WRIGHT: I think the photo depiction that I'm thinking of it's from the east view. On the left, where there's twenty feet.

MR. MONTALTO: I'm not following you.
This (indicating) is what the Buccis are looking at. This is the fifty millimeter view from here (indicating) of what the Buccis would see.

MS. TOMPKINS WRIGHT: Okay.

MR. MONTALTO: This is, the twenty-seven (indicating), this a wide-angle view. This is also from the Bucci's property, from the east. These two (indicating). These trees (indicating) that you are seeing here is what you're seeing down this line (indicating).

MS. DALE: And there's no restrictions on height of lights?

MR. DiSTEFANO: No, we do not have any residential light regulations.

MR. MIETZ: Other than containing them?

MR. DiSTEFANO: No, not even containing them. Lights are an interesting and difficult topic to regulate.

It really doesn't play into the request, but can you explain the lights a little bit and what type of lighting they're going to have, so the Board has a better understanding?

MR. MONTALTO: Yes. They're a specific lighting system developed for tennis court lighting.
They're a twenty foot height with a three foot arm so that they put the light over the court. There a -- you know, at this point I believe they're a metal alloy fixture and they are only, you know, there for the recreational, you know, use. It's not a -- it's for the O'Donnell's personal use for the tennis court standpoint. We did -- we would provide it on the set, the detail or whatever, but it's a lighting fixture that is specifically developed for tennis lighting. It's a twenty foot high pole with a, you know, three foot of overhang so that's pulling the light more over the tennis court. It directs it to the court. You know, with any outdoor activity that's sports related making sure there's no shadows within the tennis court so the ball doesn't get lost is what the tennis court manufacturer, you know, recommend.

MS. CORRADO: I'm curious, do these lights have to be turned on manually or do they come on automatically at dusk?

MR. MONTALTO: I'm not sure how they're going to do --


MS. CORRADO: And do the O'Donnells
anticipate a lot of late night tennis?

MR. DiSTEFANO: You have to come up here and introduce yourself.

MS. KENTON: Marie Kenton, Ketmar development.

I can tell you that they don't live here in the summer. They don't reside at this house in the summer. So the limitation of nighttime use would probably be a little bit in the fall and spring in terms of tennis.

MR. GOLDMAN: And if we set a condition that the lights should be off by some specific time, ten/eleven o'clock --

MR. DiSTEFANO: I don't --

MR. GOLDMAN: You don't want to do that?

MR. DiSTEFANO: I don't think we can. The problem that we run into, the conditions have to apply to the fence. I mean I just wanted you guys to understand that this court would be lit and this is part of it.

MR. MIETZ: Right.

MR. DiSTEFANO: But it's difficult for us to apply conditions that don't really apply to what the variance request is, and the variance request is the
fence. It's not the location of -- if this tennis
court was in the front yard - which they originally had
thought about - then, yes, we could probably condition
lighting because we're talking about the location.

In this case the tennis court itself, if they
took the fencing out or they had six foot high fencing
around it they wouldn't be in front of us and they
could have their lights and everything. So we have to
be careful how we condition this application if we
condition it with anything.

MR. DOLLINGER: I mean you can make it a
green fence, but you can't --

MR. DISTEFANO: Yeah, you can make it --

MS. TOMPKINS WRIGHT: There's screening --

MR. DISTEFANO: -- a black fence, a green
fence.

I'm sorry?

MS. TOMPKINS WRIGHT: And screening for it.

MR. DISTEFANO: You certainly could talk
about screening of the ten foot high fence, correct.

MS. TOMPKINS WRIGHT: With fifteen feet is
there even room to do additional screening?

MS. KENTON: I guess I would ask --

MR. MONTALTO: Yeah.
MS. KENTON: -- if you've been to the site?
Because it's pretty dense right now.

MR. MONTALTO: We could screen it. You know, we looked at -- I guess, let's have a better discussion so, you know, where we would be planting additional screening because this (indicating) is to the Bucci's. I'm not sure why we would enhance this. When you look at, you know, to the Gates' property, anything we plant is not going to initially fall in the area that's probably above the six and a half feet to the ten foot range. We've got, you know, a substantial strand of evergreen here that as they continue to grow will continue to offer additional screening.

If conditioned to add screening, sure. You know, fifteen feet, yes, that's plenty from a root standpoint to add additional screening.

But, you know, we did look at it and I think that's one of the reasons why we went to, you know, the additional effort to really look at what the site line analysis was here to see, you know, how this, you know, played - you know, comes into play relative to the overall height.

You know, if you bring this across, you know, the six and a half feet is pretty much below and so any
new screening that we plant today won't provide any initial buffering. You know, it will be longer term. We kind of thought, you know, we've already got the evergreens that have a head start on any of that. You know, that was kind of our thinking. We did look at that.

MR. DiSTEFANO: Maybe on that same vein, the color of the fence do you find that -- and black vinyl I suspect is what you're going with?

MR. MONTALTO: Yes, black vinyl chain-link fence with no windscreen.

MR. DiSTEFANO: And that black vinyl works better than a green vinyl or a brown vinyl or something else?

MR. MONTALTO: We've been told that the black vinyl stands out less all seasons. That the green vinyl tends to stand out more you know, in the wintertime.

MR. DOLLINGER: Yeah, that's true.

MR. MONTALTO: We actually kicked around the same thought, did green make more sense. And we've been told that it's not a natural green and it stands out more than the black does.

MR. MIETZ: Any more questions?
Okay. Thank you.

MR. MONTALTO: Thank you.

MR. MIETZ: Is there anyone in the audience that would like to speak regarding this application?

There being none, the public hearing is closed.

4A-06-15 Application of John Cortese / 2400 West Henrietta Road LLC, owner of property located at 2400 West Henrietta Road, for an Area Variance from Section 205-7 to allow for an increase in impervious lot coverage from 77% to 87% where a maximum 65% impervious lot coverage is allowed by code. All as described on application and plans on file.

MR. AMERING: Good evening. Alex Amering with Costich Engineering. With me is Dave Ferris, one of the managers at Cortese. The application before you tonight is for an area variance for lot coverage.

A little quick history on the project: We started out the process, we met with town staff, we reviewed the code. Ultimately that's why we're here tonight for the variance. We went to the Conservation Board. And then two weeks ago we were also with the Planning Board, which was tabled in lieu of the variance that we're here for tonight.
A little summary of the project itself: It's approximately a .6 acre parking lot expansion off the existing parking facilities at Cortese. All the parking to the rear there is all for the inventory. The allotment they get from their franchise. Approximately .8 acres will be disturbed as part of the project. And again, it will all be for inventory vehicles once they get delivered and storing them.

None of the parking back there would be used for public. It will all be gated off. There's currently two access points to the property, one on Crittenden and then the main access along West Henrietta Road. It's important to note that this is gated(indicating) and this is gated(indicating). And again, there's no - there would be no public use for the property back there.

I'll walk you through quickly just the burden of proof standards for the project.

Will the variance have a negative effect on the neighborhood: It won't. What you'll find it's consistent with what you'll find along this section of West Henrietta Road. The dealerships you'll see coming down along this way(indicating) all actually have zero setback. They are paved up to the property line. Here
we are conscientious of maintaining a buffer.

Can it be accomplished another way:
Ultimately it can and that's what John is doing today.
He currently uses other properties in the area, which
you'll find a lot of dealerships do that when they
can't keep their inventory on site. What we've found,
and I'm sure John would confirm it also, is it creates
additional trips to the site, safety concerns, vehicles
coming and going. Ultimately the safest option is for
him to be able to keep all of his own vehicles right on
his own property back there.

Is it the minimum to accommodate: Yes,
ultimately it is the minimum. If I asked John he would
probably want more pavement, but when we sat down and
met with him he said a hundred cars would bring him up
to what would meet his requirements from his allotment
from the franchise. Going through the planning process
is important to minimize, you know, the number of
variances. We went through looked at the parking
setbacks, the buffers required. We were ultimately
through design development people able to meet those
other minimum code requirements.

Will the variance have any adverse effect on
the environment: Quite honestly there will be
environmental improvements as part of this, despite not meeting the DEC requirements for SPDES permitting. We're going through all the same steps with the town engineer and provided stormwater which will treat the runoff from the site.

Our in-house landscape architect actually visited the site. We identified all the mature trees, which are primarily out here (indicating) along the Crittenden frontage. We will be proposing additional trees which will compliment the more mature trees which we'll be saving. You'll see there will be planting beds throughout here (indicating) with some we call them undulating land forms that will just break up the streetscape and buffer. You won't be able to actually see vehicles, you know, if you're on Crittenden Road.

Is the variance self-created: As you are probably aware, the site is existing -- is pre-existing non-conforming. We're already over the sixty-five percent. If we came to you and wanted to have one parking space we would be here presenting also for a variance. So, yes, it has, but we went through the steps of minimizing the impacts and while still meeting Mr. Cortese's requirements.

I guess at this point I'll be happy to answer
any questions the Board may have and --

MR. MIETZ: A couple things.

One, there were some comments made in a change in manufacturer's requirements for the allotment of vehicles.

MR. AMERING: Yes.

MR. MIETZ: Can you talk to that a little bit please?

MR. AMERING: Yeah. I'll start off. As you're aware in recent years John has put a lot of money into the dealership. He's been doing well. As he does, you know, sells more vehicles the allotment he gets for the next year is based on the sales from the previous year. Obviously, to keep this trend going he needs to be able to take the allotment -- is it once a year?

UNKNOWN: It actually comes four times a year.

MR. AMERING: Four times. But that's also, again, through my understanding with John has been reduced. You know, there's less times they can take the vehicles and obviously if they pass that up, you know, they're out of luck when they sell their allotment.
MR. MIETZ: All right. And how about truck traffic?

UNKNOWN: Minimal. There won't be any traffic -- the existing --

MR. MIETZ: Could you just state your name?

THE WITNESS: Oh, I'm sorry. There won't be any --

MR. MIETZ: What is your name, sir?

MR. FERRIS: My name is David Ferris. I'm the director for Cortese.

MR. MIETZ: Okay.

MR. FERRIS: The traffic that is currently being utilized - the way the vehicles are brought in via the tractor trailers - is going to be continued. Nothing is going to change.

To give you an idea, this gate that is on this side currently(indicating) that has been locked for quite a few years is not going to be opened. They will continue to drop the vehicles off at the back of the facility and then come back -- actually, they're dropped off over here(indicating) the tractor trailer pulls in here(indicating), backs up and then continues to back out again. Nothing relative to new car deliveries from the manufacturer is going to be
affected whatsoever by that.

MR. MIETZ: So in other words, what you're saying is there really is no truck traffic entering or exiting other than --

MR. FERRIS: Absolutely not.

MR. MIETZ: -- maybe a vehicle of itself for some reason?

MR. FERRIS: Absolutely.

MR. MIETZ: Or an emergency exit or whatnot.

Okay. Very good.

Any other questions that anybody has?

One comment you made about the landscaping is you were going to propose -- is there additional other than what you have on the plan?

MR. AMERING: Nope. What we --

MR. MIETZ: Can you clarify that?

MR. AMERING: What we proposed is still accurate at this point.

MR. MIETZ: Okay.

MR. AMERING: We met with the Conservation Board and they asked us to look as a couple of different species and we're happy to accommodate, you know, their --

MR. MIETZ: So what's on the plan is accurate
as to what you proposed?

   MR. AMERING: Yup.

   MS. DALE: So you're basically replacing the trees -- you're taking a number of trees down.
   You're going to replace them in a different location?

   MR. AMERING: Yeah. What you'll see is there are some gaps out on Crittenden Road (indicating). We're going to fill in those gaps. And you'll see there's also some mature trees right in the center there (indicating). Save those and then build some planting beds around it.

   MS. CORRADO: So you're expanding the total coverage considerably. You're addressing the runoff and the impact. But the more we have surface coverage the more we have heat accumulation in the area.

   Was there any consideration given to building in any greenery into the expanding of the lot?

   MR. AMERING: What we found is being for vehicle inventory storage is, you know, they're moving vehicles around a lot. In a winter like this it's quite the operation keeping the cars cleaned off and you know, really they need to keep options open for moving those vehicles. So we really focused our
efforts around saving the green space around the exterior of the property. You know, in a situation like this islands just really aren't practical for, you know, their operations and all that.

So again, we tried to maximize our effort around the, you know, buffering the property line.

MS. CORRADO: Thank you.

MR. DiSTEFANO: Just one question.

MR. AMERING: Yes?

MR. DiSTEFANO: So at this point in time with this expansion this would alleviate the need for off-site storage, or could there still possibly be that need?

MR. FERRIS: At this point we feel that the dealership has most likely come to a peak as far as what are allotments are going to be. If it -- I honestly can't see much more expansion. We would have to -- a dealer would have to go out of business in the Monroe County area for us to expand any further. We've truly grown a lot and I just cannot see it happening any further.

MR. DiSTEFANO: So we probably won't see you back here to renew the temporary and revocable use permit across the street at the Friendly's facility?
MR. FERRIS: That probably -- we would love to not be parking across the street. Because to be candid with you we have many clients that currently want to go there and we tell them that they can't when they're in the facility - our current facility. And we have our lot attendants, if you may, go get the vehicle for them. And we don't want to use that property, it's just that simple. We really don't.


Any other questions?

Okay. Thank you very much.

MR. AMERING: Thank you.

MR. MIETZ: Is there anyone in the audience that would like to speak regarding this application?

There being none, the public hearing is closed.

4A-07-15 Application of Thomas and Kara Masaschi, owners of property located at 3565 Elmwood Avenue, for 1) an Area Variance from Section 203-2.1B(3) to allow a detached garage to be 1,662 sf in size, after construction of a 672 sf addition, in lieu of the maximum 600 sf allowed by code; and 2) an Area Variance from Section 207-6A(1) to allow said garage addition to be 28 +/- ft. in height in lieu of the maximum 16 ft.
in height allowed by code. All as described on
application and plans on file.

MR. BRENNER: Good evening, Chairman Mietz,
Members of the Zoning Board of Appeals. Robert Brenner
here on behalf of the applicant Thomas and Kara
Masaschi, from the law firm Nixon Peabody.

We're here before you this evening in
connection with an application for a residential
detached garage at 3565 Elmwood Avenue. And there are
two area variances that we're seeking in connection
with the proposed expansion.

The first is an area variance from code
section 203-2.1B(3) which is the maximum square footage
requirement for detached garage dwellings in this
district. We are expanding an existing detached garage
that's nine hundred and ninety square feet by six
hundred and seventy-two square feet to a total proposed
square footage of one thousand six hundred and
sixty-two square feet.

The second area variance that we're here
before you this evening for is a height variance from
section 207-6A(1) of the town code, which relates to
height of the excessory structures in the town. We're
proposing a twenty-eight foot height of the garage
expansion where sixteen feet is permitted by code.

So what I thought I would do is I would take you through each of the area variance requests and then refer to the renderings that you have in your application booklets together with the site plan that was prepared by T.Y. Lin.

Just as a matter of housekeeping, I'd like to go through our application booklet briefly. In tab A behind the letter of intent you have copies of the town's supplied application forms. Exhibit B, you have our responses to the area variance standards under the town law, and I will get to those later in my presentation. Tab C, you have a short-form environmental assessment form. Exhibit D, the site plan that I eluded to. And Exhibit E, is a copy of the architectural renderings of the proposed garage addition.

So with respect to the maximum square footage and the variance that we're seeking, I will just direct your attention to that rendering that's behind the last tab of the application booklet, and that's tab E. If you look in the upper left-hand corner of that exhibit -- which you have an 11x17 copy of -- the proposed expansion is to the far left. And what we're proposing
is a single-car garage expansion, expanding the existing two-car detached garage. And the expansion is really in connection with the removal of a two-car attached garage from the existing residential structure on that property back in 2007. And that was removed due to deteriorated conditions and safety concerns that the owner had in connection with that garage.

So what the owner of the garage is seeking to do is recoup some of that space that was lost when that attached garage was removed. And they really want to consolidate the garage space on the property. So that's why they were proposing an addition to the existing detached garage rather than an expansion of the single-family dwelling itself.

In addition to the single-car detached garage expansion, you will also notice that we built in two storage bays into that area. And those are accessed from the existing garage space.

You'll note that there are no garage doors proposed on the expansion. And the reason for that is that the owner from an aesthetic perspective felt that having a direct passthrough visible to the rear of the site would be - would have some appeal to them. So there are no garage doors proposed on the expansion.
area. So the storage bays will be accessed, as I mentioned, from the enclosed existing detached garage space.

In addition, on the second floor of the expansion area that will be heated storage space only. And in speaking with the owner they would be amendable to a condition imposed by this Board, should they entertain approval, indicating that that space will not be occupied by humans. It's for storage space only, because I know town staff had some concerns about what would be going on in that expansion area. And again, it's just storage space and a condition to that end is perfectly acceptable.

So in addition to the square footage variance that we're seeking, I also alluded to the fact that we need a height variance. And the reason for the height variance is really from an architectural perspective. When the owners and I worked with the architects on the design here the architect had some concern about matching the existing roof line. And they felt the proposed height of the expansion area – which I note is a few feet below the height of the existing detached garage roof line – would really be something that from an aesthetic perspective would be appropriate for the
proposed expansion. So that's the reason why the height is proposed at twenty-eight feet instead of sixteen which is permitted by code.

So with that being said, I would just refer back to Exhibit B, which is compliance with the town's area variance standards. I would rely on that exhibit for purposes of compliance with each of the five standards. And I would just note that on balance we feel that the benefit to the applicant in granting both area variances for the proposed garage expansion outweighs any detriment to the community from a health, safety and welfare standpoint.

I would be happy to answer any questions that you have.

MS. DALE: I have a question.

MR. BRENNER: Sure.

MS. DALE: I'm sorry, I didn't really follow the part about the new garage would not have a door for the cars to exit?

MR. BRENNER: Yeah. So if you look at the rendering, the arch area is the expansion area. So that bay is the proposed expansion bay. There is no door open on the front and that's open to the rear of the property. So it's almost a cavernous area and
that's consistent -- that's desirable to the owner
because they feel it's consistent architecturally to
the existing structures on site and what they've
attempted to do with patios and things like that.

MS. DALE: So how does -- I mean, the picture
has a car here.

How would the car get out?

MR. MIETZ: Just a clear opening.

MR. BRENNER: It would back out.

MS. DALE: Oh.

MR. BRENNER: Yeah, it's just a clear
opening. There's no pass-through or circulation on the
site.

MS. DALE: So snow or whatever would get in
and --

MR. BRENNER: Yeah, and they would clear that
out.

MS. DALE: Okay. Sorry, I was --

MR. BRENNER: Oh, no. That's fine. It's
perfectly reasonable. I asked that question myself.

MS. TOMPKINS WRIGHT: Where the previous
two-car attached garage was, is it now -- was it
resodded grass or is it still impervious coverage?

MR. BRENNER: So they built a small patio in
that area. And if you turn to tab D – the overall site plan – I could point out where that garage space was.

So if you look I believe it would be to the east side of the property – so if the T.Y. Lin is in the upper right-hand corner it would be off to the left where it says existing porch area. It's right along the existing asphalt driveway.

MS. TOMPKINS WRIGHT: Okay.

MR. BRENNER: That's where it was removed.

MS. TOMPKINS WRIGHT: Is this to scale?

I mean the entire existing porch area was --

MR. BRENNER: No.

MS. TOMPKINS WRIGHT: Okay.

MR. BRENNER: So they removed the garage and then they built a porch, which was only a portion of what the garage space was.

MS. TOMPKINS WRIGHT: Okay. So there is a portion of where the garage was that's just grass now, or is it asphalt?

MR. BRENNER: Asphalt, correct.

MR. DI STEFANO: So none of the living area was expanded into the old garage area?

MR. BRENNER: No. Not to my knowledge, no.

MR. MIETZ: You spoke about heating that
area.

Is there any water or sanitary to this addition?

MR. BRENNER: So there would be no water or sanitary to the proposed addition. It would just be heated space for storage only.

MR. MIETZ: Just heated and the electric and then --

MR. BRENNER: Yup.

MS. TOMPKINS WRIGHT: Is the size of what would be proposed garage in total consistent with other garages both in height and size in the neighborhood, or are there any other garages that -- I didn't go snooping too much.

MR. BRENNER: Yeah, as far as the size of the detached garage, there are other detached garages that are large in this area. This home is in an area that you probably know --

MS. TOMPKINS WRIGHT: Right.

MR. BRENNER: -- of town where they're large homes. So this is consistent with those other homes.

What the Masaschis are attempting to do is to regain some of the lost car bay area. Most of the homes in that area have garages in excess of three-car
garages. So they're just looking to get back to the
level where they'd have the three car bays and some
additional storage area.

    MS. TOMPKINS WRIGHT: Right. But I mean
sixteen hundred square feet is not just a three-car
garage.

    MR. BRENNER: Uhm-hum.

    MS. TOMPKINS WRIGHT: That's significantly
bigger than a three-car garage.

    But you're saying there are not just
three-car garages, but sixteen hundred square feet --

    MR. MIETZ: Structures you're saying?

    MS. TOMPKINS WRIGHT: Right. It's consistent
with the neighborhood?

    MR. BRENNER: Yeah. We feel this is
consistent with the neighborhood. The sixteen hundred
square foot is really just a function of the fact that
our proposed addition is six hundred and seventy-two
square feet to accommodate the other bay. But what
we're also up against the fact that we have a nine
hundred and ninety square foot pre-existing
non-conforming detached garage. So adding the six
hundred and seventy-two square feet to that to get the
additional bay and then the storage area that I alluded
to we feel is really the minimum square footage
necessary to accommodate the addition of that bay.

The function of the overall size is really a
function of the space that's already pre-existing
non-conforming that we're adding to.

MR. MIETZ: As far as the height issue is
concerned, I understand probably the comment that
you're trying to maintain the architectural piece of
it.

Is it also to support the need to do this
storage, is that --

MR. BRENNER: Yeah. It's for head room and
the ability to move things around that are upstairs.

From what I understand, the ceilings are
going to be vaulted. So in areas that have room will
already be diminished. So that twenty-eight feet is
really necessary to maintain some mobility upstairs to
move around and to match the existing roof line.

MR. MIETZ: Okay. Thank you very much.

MR. BRENNER: Thank you very much.

MR. MIETZ: Is this anyone in the audience
that would like to speak regarding this application?

There being none, the public hearing is
closed.
REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated
At Rochester, New York

______________________________
Chad L. Smith
PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on April
1st, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

April 1st, 2015
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:
DENNIS MIETZ, CHAIRMAN
JEANNE DALE
MORREY GOLDMAN
CHRISTINE CORRADO
ANDREA TOMPKINS WRIGHT

DAVID DOLLINGER, ESQ
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

CANDICE BAKER LEIT, ESQ.
JUDY SCHWARTZ

(The Board having considered the information presented
by the Applicant in each of the following cases and
having completed the required review pursuant to SEQRA,
the following decisions were made:)

Reported by: CHAD L. SMITH, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

EDITH FORBES (585)343-8612
APPLICATION 4A-01-14

4A-01-15 Application of Congregation Light of Israel, owner of property located at 1675 Monroe Avenue, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to erect a tent and hold up to six (per year) outdoor special events for the years 2015 and 2016. All as described on application and plans on file.

Motion made by Mr. Mietz to approve Application 4A-01-15.

FINDINGS OF FACT:

1. The variance is for a temporary and revocable use permit to allow a tent to be erected on six occasions during the year beginning April 1st, 2015 through December 31st, 2016.

2. The property in question abuts a residential neighborhood, but all of the events will occur mostly during the day with no sound amplification and lighting only within the tent itself.

3. The variance will not alter the character of the neighborhood as there is a solid vegetation buffering along the rear property.

4. The events will be a short duration and therefore will not have a large impact on the surrounding...
properties.

**CONDITIONS:**

1. The tent on all six occasions (per year) can only be set up two days prior and taken down no more than two days after.
2. There can be no sound amplification at the location.
3. Each event shall last no longer than two days.
4. All food preparation must be off site or within the synagogue.
5. The site must be cleared of all litter after the event.
6. If lighting is required it must only be inside the tent itself.
7. All events shall conclude by 11:00 p.m.
8. The variance applies only for the duration of April 1st, 2015 to December 31st, 2016.
9. All necessary fire marshal permits shall be obtained.

(Seconded by Ms. Tompkins Wright.)

(Ms. Corrado, yes; Ms. Dale, yes; Mr. Goldman, yes; Ms. Tompkins Wright, yes; Mr. Mietz, yes.)

(Upon roll call, motion to approve with conditions carries.)
APPLICATION 4A-02-15

4A-02-15 Application of Robert and Yvonne Wheeler, owners of property located at 140 Winslow Avenue, for an Area Variance from Section 207-2A to allow a front yard fence to be 6.5 ft. in height in lieu of the maximum 3.5 ft in height allowed by code. All as described on application and plans on file.

Motion made by Ms. Dale to approve Application 4A-02-15.

FINDINGS OF FACT:

1. The approval of this variance will not alter the essential character of the neighborhood.

2. The approval of this variance will not have a negative impact on the surrounding properties and will not produce an undesirable change or detriment to nearby properties.

3. The requested area variance is not substantial because it does not exceed the code fence height that would be allowed on 126 Winslow's side of the property line. It is not substantial due to the shape of the lot and the depth of the front yard and this fence would be permitted on the neighboring property.

4. The same type of fence exists elsewhere on the property.
CONDITIONS:

1. This variance applies only to the fence in the location and style as per plans submitted and testimony given.

2. All necessary building permits shall be obtained.

   (Seconded by Mr. Goldman.)

   (Mr. Mietz, yes; Ms. Tompkins Wright, yes; Ms. Corrado, yes; Mr. Goldman, yes; Ms. Dale, yes.)

   (Upon roll call, motion to approve with conditions carries.)
APPLICATION 4A-03-15

4A-03-15 Application of Corwin and Lisa Marsh, owners of property located at 398 Cromwell Drive, for an Area Variance from Sections 203-2.1B(3) and 203-16A(4) to allow a detached garage to be 800 sf in size, after construction of a 400 +/- sf addition, in lieu of the maximum 600 sf allowed by code. All as described on application and plans on file.

Motion made by Mr. Mietz to approve Application 4A-03-15.

FINDINGS OF FACT:

1. The applicant has a need to place vehicles as well as a hobby use in the garage area and the eight hundred square foot size for the garage is the minimum necessary to meet the applicant's needs.

2. The garage sits away from the road and the house and backs up to railroad property and thus no negative effect on the character of the neighborhood would be expected from the addition of the two hundred square feet over code for the structure.

3. Due to the size of the lot being in excess of one acre, an eight hundred square foot garage is not substantial and will have no negative impacts on the neighborhood.
CONDITIONS:

1. This variance shall apply only to the structure as described in plans submitted and testimony given.
2. All necessary building permits shall be obtained.
3. The exterior of the structure shall be harmonious with the existing house on the property.

(Seconded by Ms. Corrado.)

(Mr. Goldman, yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Ms. Corrado, yes; Mr. Mietz, yes.)

(Upon roll call, motion to approve with conditions carries.)
APPLICATION 4A-04-15

4A-04-15 Application of J. Fiorie and Company, agent, and M&F, LLC, owner of property located at 2740 Monroe Avenue, for a Sign Variance from Section 207-32A(4) to allow for two for sale / lease signs where a maximum one for sale / lease sign is allowed by code. All as described on application and plans on file.

Motion made by Ms. Corrado to approve Application 4A-04-15.

FINDINGS OF FACT:

1. The proposed sign complies with DOT regulations.
2. The total square footage of the sign fits within code for one or the three separate lots it applies to.
3. A single sign is actually less signage than permissible by code on all three adjacent properties comprising the single development sign.

CONDITIONS:

1. The sign will be located as per plans submitted and testimony given.
2. The sign will be the only sale or lease sign mounted in relation to this development.
3. The size shall be limited to that as shown in plans submitted and per testimony given.
4. Shall satisfy the Architectural Review Board conditions.

(Seconded by Ms. Dale.)

(Mr. Goldman, yes; Mr. Mietz, yes; Ms. Tompkins Wright, yes; Ms. Dale, yes; Ms. Corrado, yes.)

(Upon roll call, motion to approve with conditions carries.)
APPLICATION 4A-05-15

4A-05-15 Application of Marie Kenton, Ketmar Development Corp., agent, and Chris O’Donnell and Colleen Wegman, owners of property located at 1 Elm Lane, for an Area Variance from Section 207-2B to allow a rear yard fence, surrounding a tennis court, to be 10 ft. in height in lieu of the maximum 6.5 ft. in height allowed by code. All as described on application and plans on file.

Motion made by Mr. Goldman to approve Application 4A-05-15.

FINDINGS OF FACT:

1. The area where the new tennis courts will be is not visible from any road.
2. The normal size fencing used for tennis courts is ten feet in height.
3. No unacceptable change in the character of the neighborhood is expected to result from the approval of this variance.

CONDITIONS:

1. This variance applies to the tennis court fence as shown on the plans submitted and by the testimony provided to the Board at the meeting of April 1st, 2015.
2. No wind screening shall be applied to the fence and shall remain as an open chain-link style.

3. All other necessary approvals and permits from the Town of Brighton shall be obtained.

   (Seconded by Ms. Corrado.)

   (Ms. Dale, yes; Ms. Tompkins Wright, yes; Mr. Mietz, yes; Ms. Corrado, yes; Mr. Goldman, yes.)
APPLICATION 4A-06-15

4A-06-15 Application of John Cortese / 2400 West Henrietta Road LLC, owner of property located at 2400 West Henrietta Road, for an Area Variance from Section 205-7 to allow for an increase in impervious lot coverage from 77% to 87% where a maximum 65% impervious lot coverage is allowed by code. All as described on application and plans on file.

Motion made by Mr. Mietz to approve Application 4A-06-15.

FINDINGS OF FACT:

1. The desire to expand the parking relates to the manufacturer of the vehicles change in the deliveries to the owner.
2. This problem has been temporarily alleviated by the sublease of property on the west side of the property, which has temporarily aided this situation.
3. The parcel is currently a non-conforming use. And while the variance is substantial, no other configuration can meet the parking requirements and layout required by the owner to store the vehicles on site.
4. No negative impact on the character of the neighborhood is likely from this expansion since the
lot is at the rear of the commercial operation along West Henrietta Road and abuts a common use to the south in an undeveloped area.

4. Additional landscape screening will help to enclose the lot on the north and east elevations and provide screening and enhance the streetscape along Crittenden Road.

**CONDITIONS:**

1. This variance shall apply only to the parking lot expansion per plans submitted and testimony given.

2. The landscaping as shown on plans submitted shall be installed as required by the Conservation Board and the Planning Board.

3. All necessary Planning Board approvals shall be obtained.

    (Seconded by Ms. Tompkins Wright.)

    (Mr. Goldman, yes; Ms. Dale, yes; Ms. Corrado, yes; Ms. Tompkins Wright, yes; Mr. Mietz, yes.)
APPLICATION 4A-07-15

4A-07-15 Application of Thomas and Kara Masaschi, owners of property located at 3565 Elmwood Avenue, for 1) an Area Variance from Section 203-2.1B(3) to allow a detached garage to be 1,662 sf in size, after construction of a 672 sf addition, in lieu of the maximum 600 sf allowed by code; and 2) an Area Variance from Section 207-6A(1) to allow said garage addition to be 28 +/- ft. in height in lieu of the maximum 16 ft. in height allowed by code. All as described on application and plans on file.

Motion made by Ms. Tompkins Wright to table Application 4A-07-15 and keep the public hearing open for additional information: 1. For a better understanding of the necessity of the size, and evidence that it can't be achieved by other means; 2. For verification of other structures in the area that are similar in size and height which is in keeping with the character of the neighborhood.

(Seconded by Mr. Goldman.)

(Ms. Corrado, yes; Mr. Mietz, yes; Ms. Dale, yes; Mr. Goldman, yes; Ms. Tompkins Wright, yes.)

(Upon roll call, motion to table and keep the public hearing open carries.)
REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated
At Rochester, New York

____________________________
Chad L. Smith
M
Ms. Baker [1] 2/11
Ms. Schwartz [1] 2/11
much [19] 2/21 7/8 8/22 15/5 15/9
19/3 15/16 17/22 2/22 22/7 26/2 21/7 27/18
23/18 36/25 46/18 47/12 55/15 57/20
57/21
multiple [2] 20/9 20/24
must [3] 61/10 61/12 61/14
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myself [1] 53/21
Nope [1] 54/16
non-conforming [4] 44/19 20/12 52/21 56/23
57/6
October/November [1] 6/24
7/6 7/8 9/18 9/13 10/15 25 11/19 14/10
14/14 16/13 19/13 22/8 22/17 22/30 3/9
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47/10 47/12 53/19 54/9 54/14 54/18
57/20
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31/8 36/19 38/16 39/12 41/20 42/44 44/13
46/9 48/19 62/44 66/7 66/15
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overlap [1] 27/3
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